

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 433**

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**Introduced by Senator Berryhill**

February 25, 2015

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An act to amend ~~Section 20~~ Sections 7360 and 60050 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 433, as amended, Berryhill. ~~Taxation—Motor vehicle fuel taxes: diesel fuel taxes: rates: adjustments.~~

*Existing law, as of July 1, 2010, exempts the sale of, and the storage, use, or other consumption of, motor vehicle fuel from specified sales and use taxes and increases the excise tax on motor vehicle fuel, as provided.*

*Existing law requires the State Board of Equalization, for the 2011–12 fiscal year and each fiscal year thereafter, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, to adjust the motor vehicle fuel tax rate in that manner as to generate an amount of revenue equal to the amount of revenue loss attributable to the sales and use tax exemption on motor vehicle fuel, based on estimates made by the board. Existing law also requires, in order to maintain revenue neutrality, the board to take into account actual net revenue gain or loss for the fiscal year ending prior to the rate adjustment date. Existing law requires this determined rate to be effective during the state's next fiscal year.*

*This bill would, for the 2016–17 fiscal year and each fiscal year thereafter, instead require the Department of Finance to adjust the motor vehicle fuel tax rate as described above, and would require the*

department to notify the board of the rate adjustment effective for the state's next fiscal year, as provided.

Existing law, as of July 1, 2011, increases the taxes on the sale of, and the storage, use, or other consumption of, diesel fuel, and reduces the excise tax on diesel fuel.

Existing law requires the board, for the 2012–13 fiscal year and each fiscal year thereafter, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, to adjust the diesel fuel tax rate by reducing it in that manner as to result in a revenue loss that will equal the amount of revenue gain attributable to the increase in the sales and use tax rate, based on estimates made by the board. Existing law also requires, in order to maintain revenue neutrality, the board to take into account actual net revenue gain or loss for the fiscal year ending prior to the rate adjustment date. Existing law requires this determined rate to be effective during the state's next fiscal year.

This bill would, for the 2016–17 fiscal year and each fiscal year thereafter, instead require the Department of Finance to adjust the diesel fuel excise tax rate as described above, and would require the department to notify the board of the rate adjustment effective for the state's next fiscal year, as provided.

~~Existing law defines the term “board” to mean the State Board of Equalization for purposes of the Revenue and Taxation Code.~~

~~This bill would make a technical, nonsubstantive change to that law.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 7360 of the Revenue and Taxation Code
- 2     is amended to read:
- 3     7360. (a) (1) A tax of eighteen cents (\$0.18) is hereby imposed
- 4     upon each gallon of fuel subject to the tax in Sections 7362, 7363,
- 5     and 7364.
- 6     (2) If the federal fuel tax is reduced below the rate of nine cents
- 7     (\$0.09) per gallon and federal financial allocations to this state for
- 8     highway and exclusive public mass transit guideway purposes are
- 9     reduced or eliminated correspondingly, the tax rate imposed by
- 10    paragraph (1), on and after the date of the reduction, shall be
- 11    recalculated by an amount so that the combined state rate under

paragraph (1) and the federal tax rate per gallon equal twenty-seven cents (\$0.27).

(3) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be so exempt under this section.

(b) (1) On and after July 1, 2010, in addition to the tax imposed by subdivision (a), a tax is hereby imposed upon each gallon of motor vehicle fuel, other than aviation gasoline, subject to the tax in Sections 7362, 7363, and 7364 in an amount equal to seventeen and three-tenths cents (\$0.173) per gallon.

(2) (A) ~~For the 2011–12 fiscal year and each fiscal year thereafter to the 2015–16 fiscal year, inclusive,~~ the board shall, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the rate in paragraph (1) in that manner as to generate an amount of revenue that will equal the amount of revenue loss attributable to the exemption provided by Section 6357.7, based on estimates made by the board, and that rate shall be effective during the state’s next fiscal year.

*(B) For the 2016–17 fiscal year and each fiscal year thereafter, the Department of Finance shall, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the rate in paragraph (1) in that manner as to generate an amount of revenue that will equal the amount of revenue loss attributable to the exemption provided by Section 6357.7, based on estimates made by the Department of Finance, and that rate shall be effective during the state’s next fiscal year.*

(3) In order to maintain revenue neutrality for each year, beginning with the rate adjustment on or before March 1, 2012, the adjustment under paragraph (2) shall also take into account the extent to which the actual amount of revenues derived pursuant to this subdivision and, as applicable, Section 7361.1, the revenue loss attributable to the exemption provided by Section 6357.7 resulted in a net revenue gain or loss for the fiscal year ending prior to the rate adjustment date on or before March 1.

(4) The intent of paragraphs (2) and (3) is to ensure that ~~the act adding Chapter 6 of the Statutes of 2011, which added this subdivision and Section 6357.7~~ 6357.7, does not produce a net revenue gain in state taxes.

1 (5) No later than March 10, 2016, and each March 10 thereafter,  
2 the Department of Finance shall notify the board of the rate  
3 adjustment effective for the state's next fiscal year.

4 SEC. 2. Section 60050 of the Revenue and Taxation Code is  
5 amended to read:

6 60050. (a) (1) A tax of eighteen cents (\$0.18) is hereby  
7 imposed upon each gallon of diesel fuel subject to the tax in  
8 Sections 60051, 60052, and 60058.

9 (2) If the federal fuel tax is reduced below the rate of fifteen  
10 cents (\$0.15) per gallon and federal financial allocations to this  
11 state for highway and exclusive public mass transit guideway  
12 purposes are reduced or eliminated correspondingly, the tax rate  
13 imposed by paragraph (1), including any reduction or adjustment  
14 pursuant to subdivision (b), on and after the date of the reduction,  
15 shall be increased by an amount so that the combined state rate  
16 under paragraph (1) and the federal tax rate per gallon equal what  
17 it would have been in the absence of the federal reduction.

18 (3) If any person or entity is exempt or partially exempt from  
19 the federal fuel tax at the time of a reduction, the person or entity  
20 shall continue to be exempt under this section.

21 (b) (1) On July 1, 2011, the tax rate specified in paragraph (1)  
22 of subdivision (a) shall be reduced to thirteen cents (\$0.13) and  
23 every July 1 thereafter shall be adjusted pursuant to paragraphs  
24 (2) and (3).

25 (2) (A) For the 2012–13 fiscal year ~~and each fiscal year~~  
26 ~~thereafter to the 2015–16 fiscal year, inclusive~~, the board shall, on  
27 or before March 1 of the fiscal year immediately preceding the  
28 applicable fiscal year, adjust the rate reduction in paragraph (1) in  
29 that manner as to result in a revenue loss attributable to paragraph  
30 (1) that will equal the amount of revenue gain attributable to  
31 Sections 6051.8 and 6201.8, based on estimates made by the board,  
32 and that rate shall be effective during the state's next fiscal year.

33 (B) For the 2016–17 fiscal year and each fiscal year thereafter,  
34 the Department of Finance shall, on or before March 1 of the fiscal  
35 year immediately preceding the applicable fiscal year, adjust the  
36 rate reduction in paragraph (1) in that manner as to result in a  
37 revenue loss attributable to paragraph (1) that will equal the  
38 amount of revenue gain attributable to Sections 6051.8 and 6201.8,  
39 based on estimates made by the Department of Finance, and that  
40 rate shall be effective during the state's next fiscal year.

(3) In order to maintain revenue neutrality for each year, beginning with the rate adjustment on or before March 1, 2013, the adjustment under paragraph (2) shall take into account the extent to which the actual amount of revenues derived pursuant to Sections 6051.8 and 6201.8 and the revenue loss attributable to this subdivision resulted in a net revenue gain or loss for the fiscal year ending prior to the rate adjustment date on or before March 1.

(4) The intent of paragraphs (2) and (3) is to ensure that ~~the act adding Chapter 6 of the Statutes of 2011, which added this subdivision and Sections 6051.8 and 6201.8~~ 6201.8, does not produce a net revenue gain in state taxes.

(5) *No later than March 10, 2016, and each March 10 thereafter, the Department of Finance shall notify the board of the rate adjustment effective for the state's next fiscal year*

~~SECTION 1. Section 20 of the Revenue and Taxation Code is amended to read:~~

~~20. "Board" shall mean the State Board of Equalization.~~